

27th November 1923]

Serial number and subject of resolution.	When passed by the Council.	Nature of the action taken by Government.
13. Repairs to Srirangam temple.	26th Feb. 1923.	The Committee appointed by the Council met at Trichinopoly and discussed the question with reference to past records. The Committee has appointed a sub-committee to investigate certain pleas of the temple trustees and report.

L. D. SWAMIKANNU,
Secretary to the Council.

APPENDIX D.

[Vide page 15 supra]

G.O. No. 1482, Development, dated 11th October 1923.

READ—the following papers:—

I

G.O. No. 326, Development, dated 3rd March 1923.

II

Letter from E. F. THOMAS, Esq., C.I.E., I.C.S., M.L.C., Director of Industries, to the Secretary to Government, Development Department, dated Camp Ootacamund, the 9th June 1923, No. 528-A/23.

In section 8 of the State Aid to Industries Act, reference is made to form of application to be prescribed. Rule 10 also requires applications to be in a specified form. I am receiving a fair number of applications for State aid in one form or another and it seems to me that it is now time to prescribe a form. The Act is silent as to the authority which should prescribe the form and I assume that the prescription should be by Government. I enclose for approval or criticism a tentative form * of application which I have drawn up and request the orders of Government.

III

Official Memorandum No. 1468-II/23-1, Development, dated 28th June 1923.

The Director is requested to report what is the intention of item 17 of the questionnaire, whether it is to find out if any arrears of *land revenue* are due. The Government observe however that no such information is sought in respect of the collateral security referred to in item 16 and there is no item in the whole questionnaire intended to elicit information as to the nature and extent of the encumbrances, if any, on the immovable property offered as security.

(By order)

C. J. PAUL,
Assistant Secretary to Government.

To the Director of Industries.

* Printed as finally approved at pages 92-93.

[27th November 1923]

IV

Letter from E. F. THOMAS, Esq., C.I.E., I.C.S., M.L.C., Director of Industries, to the Secretary to Government, Development Department, dated Madras, the 6th July 1923, No. 528-A/23.

With reference to Government Memorandum No. 1468-II/23-1, dated the 28th June 1923, I have the honour to state that the term 'arrears' as used in item 17 of the questionnaire is general in signification and intended to include not only arrears of land revenue but arrears of any other kind as well, e.g., balance due under a prior loan, balance of purchase money in respect of the property remaining unpaid by the applicant, etc

Items 16 and 17 of the questionnaire may be modified to read as follows:—

Item 16.—Nature and extent of encumbrances, if any, on the immovable property offered as security—primary or collateral.

Item 17.—Whether any arrears are due on the immovable property offered as security—primary or collateral—and if so, the nature and extent of such arrears.

The production of an encumbrance certificate will of course be insisted upon whenever immovable property is offered as security.

V

Memorandum No. 1468-II/23-4, Development, dated 4th August 1923.

Section 8 (1) of the Madras State Aid to Industries Act (Act V of 1923) lays down that any person desiring to obtain a loan or other aid for any industrial business or enterprise shall make his application to the Director of Industries in such form as may be prescribed. Rule 10 of the rules framed under section 19 of the Act lays down that every application for aid shall be made to the Director of Industries in the specified form. No form has been specified in the rules and the Government now propose to prescribe one under section 8 (1) of the Act. The question has been raised in this connexion whether the form can be prescribed by an executive order of the Government or whether it should form part of the rules and for that reason, be laid on the table of the Legislative Council as required by the proviso to section 19 of the Act.

2. It may be argued that the words "in such form . . . as may be prescribed" occurring in section 8 (1) of the Act can only mean a form to be prescribed by the Government and that the words "specified form" occurring in rule 10 can only refer to the form mentioned in section 8 (1) and that therefore the form can be prescribed by an executive order of the Government. On the other hand, it may be contended that the form has not been specified in the rules themselves and that the omission should be now supplied and that, as it would then form part of the rules, it should be laid on the table of the Legislative Council as required by the proviso to section 19 of the Act.

3. The Advocate-General is requested to be so good as to favour the Government with his opinion on the question.

F. NOYCE,
Acting Secretary to Government.

To the Advocate-General, through the Government Solicitor (with copies of the Act and Rules).

27th November 1923]

VI

From C. MORESBY, Esq., Government Solicitor, Madras, to the Secretary to Government, Development Department, dated the 4th September 1923, No. 1303.

ABSTRACT.—Forwarding the following opinion of the Hon'ble the Advocate-General:—

OPINION.

No. 149.

[Reference.—Memorandum No. 1468-II/23-4, Development, dated 4th August 1923.]

Section 8 (1) of the Madras State Aid to Industries Act says that any person desiring to obtain a loan or other aid for any industrial business or enterprise shall make his application in such form as may be prescribed. The Legislature, by section 19-B (4), has invested the Local Government with power to make rules regulating the manner of making applications for State aid, etc.; but the Local Government has not as a matter of fact prescribed any form in pursuance of this rule-making power which is the only method by which the Local Government has been authorized to prescribe such forms. In my view, this omission on the part of the Local Government cannot be supplied by an executive order of the Government prescribing form for the application.

The words "in such form as may be prescribed" occurring in section 8 (1) of the Act cannot, taken by themselves, mean that the form is to be prescribed by the Local Government. They can only mean that the form is to be prescribed by the Legislature, and since the Local Government has not prescribed any such forms in compliance with the power bestowed upon it by the Legislature, it cannot, as I have said above, prescribe a form by issuing an executive order. I am of opinion that the prescribed form should be a part of the rules and for that reason be laid on the table of the Legislative Council as required by the proviso to section 19 of the Act.

MADRAS,
30th August 1923.

C. MADHAVAN NAYAR,
Advocate-General.

Order—No. 1482, Development, dated 11th October 1923.

The following notification will be published in the *Fort St. George Gazette*:—

"NOTIFICATION.

In exercise of the powers conferred by section 19 of the Madras State Aid to Industries Act, 1922 (Act V of 1923), the Government in the Ministry of Development are pleased to make the following amendments to the rules framed under the Act and published in the *Fort St. George Gazette Extraordinary*, dated 3rd March 1923:—

(1) In rule 10 of the rules for the words 'in the specified form' the words 'in the form annexed' shall be substituted.

[27th November 1923]

(2) At the end of the rules the following form shall be added as an annexure:—

*Form of application for aid under the State Aid to Industries Act, 1922
(No. V of 1923).*

1. Name of applicant and his full address.
2. Nature of the industrial concern for which aid is sought.
3. The administrative, technical and executive staff existing or to be appointed with qualifications.
4. The facilities available for the development of the industry.
5. The nature of the processes to be employed.
6. Details of plant and machinery installed or proposed to be installed at the works.
7. The total estimated cost of the undertaking and the probable time that will be occupied in its execution. (Details of recurring and non-recurring expenditure should be furnished separately.)
8. Approximate number of operatives employed or to be employed.
9. Estimated net expenditure per annum in running the works.
10. Estimated net profits accruing.
11. Reasons why the business cannot be financed without State assistance.
12. Nature and extent of State aid applied for. (The particular clause of section 6 under which the aid is applied for should be stated.)
13. Security offered—
 - (a) If land,
 1. Survey No.
 2. Extent
 3. Assessment
 4. In whose name registered.
 - (b) Nature and description of other security, if any, offered.
14. Nature and extent of the applicant's right in the concern whether as co-sharer or proprietor or otherwise and his financial resources.
15. Nature and extent of the applicant's right to the property offered as security.
16. Nature and extent of encumbrances on the immovable property offered as security—primary or collateral.
17. Whether any arrears are due on the immovable property offered as security—primary or collateral and if so, the nature and extent of such arrears.
18. Period within which and the number of instalments in which the applicant proposes to repay the loan.
19. Approximate additional net income expected to be earned as a result of the proposed expenditure.
20. If the application is from a joint stock company, the amount of capital actually subscribed and paid up and the number of shares held by each of the Directors and their salary and fees and other perquisites should be stated.

NOTE.—The application should also be accompanied by a copy of the prospectus and memorandum and the Articles of Association with a list containing the names and descriptions of the Directors.

27th November 1923]

21. Any other remarks.

Declaration.—I declare that the statements made above are true to the best of my information and belief."

2. The Secretary to the Legislative Council is requested to lay a copy of the above notification on the table of the Legislative Council at its next meeting as required by the proviso to section 19 of the Act and to report in due course the exact date on which this was done.

(By order of Government, Ministry of Development)

F. NOYCE,
Acting Secretary to Government.

To the Secretary to the Legislative Council, through the Law (Legislative) Department.

- „ Director of Industries.
- „ Law (Legislative) Department.
- „ Superintendent, Government Press (for publication of the notification in the Gazette).



27th November 1923]

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The words "in such form as may be prescribed" occurring in section 8 (1) of the Act cannot, taken by themselves, mean that the form is to be prescribed by the Local Government. They can only mean that the form is to be prescribed by the Legislature, and since the Local Government has not prescribed any such forms in compliance with the power bestowed upon it by the Legislature, it cannot, as I have said above, prescribe a form by issuing an executive order. I am of opinion that the prescribed form should be a part of the rules and for that reason be laid on the table of the Legislative Council as required by the proviso to section 19 of the Act.

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